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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,745	02/21/2006	Mitsuko Ideno	1422-0709PUS1	6655

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EXAMINER	
SKELDING, ZACHARY S	

ART UNIT	PAPER NUMBER
1644	

NOTIFICATION DATE	DELIVERY MODE
07/09/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/568,745	IDENO ET AL.	
	Examiner	Art Unit	
	ZACHARY SKELDING	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-24* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

   This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

2. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

   Group I, claim(s) 1-16, 20, 21 drawn to a method for preparing a cytotoxic lymphocyte characterized in that the method comprises the step of carrying out at least one step selected from induction, maintenance and expansion of a cytotoxic lymphocyte using a medium containing serum and plasma at a total concentration of 0% by volume or more and less than 5% by volume, in the presence of fibronectin, a fragment thereof or a mixture thereof.

   Group II, claim(s) 17 and 18, drawn to a cytotoxic lymphocyte obtained by the method of defined in claim 1 and medicaments thereof.

   Group III, claim(s) 19, drawn to a medium for culturing a cytotoxic lymphocyte, characterized in that the medium comprises as an effective ingredient fibronectin, a fragment thereof or a mixture thereof, and that a total concentration of serum and plasma in the medium is 0% by volume or more and less than 5% by volume.

   Group IV, claim(s) 22, drawn to a polypeptide having the amino acid sequence (x) shown in SEQ ID NO: 25 of Sequence Listing or an amino acid sequence (y) having deletion, insertion, addition or substitution of one or the plural number of amino acids in the amino acid sequence (x), wherein the polypeptide having the amino acid sequence (y) has a function equivalent to that of the amino acid sequence (x).

   Group V, claim(s) 23 and 24, drawn to nucleic acids encoding the polypeptides of Group IV and nucleic acid comprising (1) a DNA comprising the nucleotide sequence shown in SEQ ID NO: 26; (2) a DNA comprising a nucleotide sequence having deletion, substitution, insertion or addition of one or the plural number of nucleotides in the nucleotide sequence shown in SEQ ID NO: 26, wherein the DNA encodes a polypeptide having a function equivalent to that of the polypeptide encoded by the DNA (1); or (3) a DNA which hybridizes to a DNA comprising the nucleotide sequence shown in SEQ ID NO: 26 under stringent conditions, wherein the DNA encodes a polypeptide having a function equivalent to that of the polypeptide encoded by the DNA (1).

3. The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special

technical features for the following reasons: the inventions, for example, of Groups I and IV, lack unity of invention over WO 03/016511 A1 which discloses inducement of cytotoxic T lymphocytes using a culture including fibronectin and fragments thereof and also discloses the sequences of said fibronectin and fragments thereof (see English language translation of Written Opinion of International search authority mailed October 26, 2004 and WO 03/016511 A1, both cited by applicant on an IDS).

4. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

5. The species are as follows:

   If applicant elects Group I, applicant is further required to elect a particular step(s) to be practiced in the claimed method selected from "induction" OR "maintenance" OR "expansion" OR some unique combination thereof, e.g., "maintenance AND expansion".

   If applicant elects Group I, applicant is further required to elect a particular fibronectin fragment from among the various fragments recited in the instant claims, e.g., claim 10 or 12.

   If applicant elects Group I, applicant is further required to elect if the method to be examined includes OR "does not require at step of diluting a cell culture solution" (compare, e.g., claims 14 and 15).

6. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

   Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

7. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZACHARY SKELDING whose telephone number is (571)272-9033. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on 571-272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Zachary Skelding/
Examiner, Art Unit 1644